

REMARKS

This paper and the accompanying Request for Continued Examination (RCE) are submitted in response to the Final Office Action dated November 2, 2009 (the “Final Office Action”).

Claims 1-117, 119, 122, and 124-130 were previously pending.

Claims 122 and 125-126 have been canceled in this paper.

Claims 1-112, 114-117, 119, 124, and 127-130 stand rejected.

Claim 113 has been allowed.

The amendments add no new matter. Support for the amendments may be found throughout Applicant’s Specification and Drawings as originally filed. The amendments to the claims have been made to expedite prosecution. While not conceding that the cited reference(s) qualify as prior art, but instead to expedite prosecution, Applicant has chosen to respond as follows. Applicant reserves the right to establish that the cited reference(s), or other references cited thus far or hereafter, do not qualify as prior art as to an invention embodiment previously, currently, or subsequently claimed. Applicant also reserves the right, for example in a continuing application, to pursue the previously pending claims or claims similar thereto. Applicant respectfully submits that the pending claims are allowable in view of the following remarks and the above amendments, and respectfully requests reconsideration of the pending rejections.

Allowable Subject Matter

Applicant expresses gratitude for the notation that claim 113 is allowed. Applicant also expresses gratitude for the indication that claims 8-13, 15, 18-28, 36-41, 43, 46-56, 64-69, 71, 74-84, 92-97, 99, 102-112, and 122 present allowable subject matter.

Applicant has amended independent claims 1, 29, 57, and 85 in view of this indication, as discussed below.

Rejection of Claims under 35 U.S.C. § 112, first paragraph

Claims 1-112, 114-117, 119, 124, and 127-130 stand rejected as purportedly failing to comply with the written description requirement of 35 U.S.C. § 112, first paragraph.

Applicant had previously amended claim 1 to recite “said information is transmitted from said candidate node along a first physical path,” and to recite identifying “said first physical path as” an alternate physical path “for said virtual path.” The Final Office Action expresses a concern that these amendments were not described in Applicant’s Specification. Applicant respectfully submits that these amendments were supported by the Specification.

Nonetheless, to further prosecution, Applicant has deleted from claim 1 the previously-added words in question. Applicant has similarly amended independent claims 29, 57, and 85. Applicant respectfully submits that in view of these deletions, independent claim 1, 29, 57, and 85 and all claims dependent thereon are allowable under the written description requirement of 35 U.S.C. § 112, first paragraph.

Rejection of Claims under 35 U.S.C. § 103

Claims 1-3, 29-31, 57-59, 85-87, 114-117, 119, 124, and 127 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,282,170 issued to Bentall et al. (“**Bentall**”), in view of U.S. Patent No. 2002/0118638, naming Donahue et al. as inventors (“**Donahue**”). Claims 4-7, 14, 16, 32-35, 42, 44, 60-63, 70, 72, 88-91, 98, and 100 stand rejected under § 103(a) as being unpatentable over Bentall in view of Donahue, and further in view of U.S. Patent No. 6,728,205 issued to Finn, et al. (“**Finn**”). Claims 17, 45, 73, and 101 stand rejected under § 103(a) as being unpatentable over Bentall and Donahue in view of Finn and further in view of U.S. Patent No. 6,430,150 issued to Azuma, et al. (“**Azuma**”). Claim 125 stands rejected under § 103(a) as being unpatentable over Bentall in view of Donahue and U.S. Patent No. 5,130,974 issued to Kawamura et al. (“**Kawamura**”). Claim 126 stands rejected under § 103(a) as being unpatentable over Bentall in view of Donahue and Kawamura, and further in view of U.S. Patent No. 4,287,592 issued to Paulish, et al. (“**Paulish**”).

Applicant has amended independent claims 1, 29, 57, and 85 as indicated above.

As amended, independent claim 1 includes the limitations of claim 122, which the Final Office Action acknowledged as presenting allowable subject matter. Claim 122, which depended on claim 1 and on intervening claims 126 and 125, has now been canceled. In compliance with the suggestion on p. 8 of the Final Office Action, amended claim 1 also includes each limitation of the intervening claims 126 and 125, as well as of allowable claim 122.

Accordingly, Applicant respectfully submits that amended independent claim 1 and all claims dependent thereon are now allowable under § 103(a). Independent claims 29, 57, and 85 have been similarly amended. Accordingly, Applicant respectfully submits that amended

independent claims 29, 57, and 85 and all claims dependent thereon are also now allowable under § 103(a).

CONCLUSION

In view of the amendments and remarks set forth herein, the application and the claims therein are believed to be in condition for allowance and a notice to that effect is solicited.

Nonetheless, should any issues remain that might be subject to resolution through a telephonic interview, the Examiner is invited to telephone the undersigned at 512-439-5097.

If any extensions of time under 37 C.F.R. § 1.136(a) are required in order for this submission to be considered timely, Applicant hereby petitions for such extensions. The undersigned hereby authorizes that any fees due for such extensions or any other fee associated with this submission, as specified in 37 C.F.R. §§ 1.16 or 1.17, be charged to deposit account no. 502306.

I hereby certify that this correspondence is being submitted to the U.S. Patent and Trademark Office in accordance with 37 C.F.R. § 1.8 on March 2, 2010 (CDT) by being (a) transmitted via the USPTO's electronic filing system; or (b) transmitted by facsimile to 571-273-8300; or (c) deposited with the U.S. Postal Service as First Class Mail in an envelope with sufficient postage addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia, 22313-1450.

/ Cyrus F. Bharucha /
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March 2, 2010
Date

Respectfully submitted,

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